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SUBJECT: DEMARCHE ON U.S. WTO TAFT PROPOSAL

REF: STATE 20817

11. This is an action request. See paragraph 3.

12. The U.S. is seeking, in the context of the WTO Doha Round negotiations, to reduce non-tariff barriers related to textiles, apparel, footwear, and travel goods labeling. Textiles, apparel, footwear, and travel goods are products of importance to a range of countries, both developed and developing. On May 15, 2006, the United States tabled a negotiating text on reducing non-tariff barriers to trade related to labeling of textiles, apparel, footwear, and travel goods in the WTO Negotiating Group on Market Access. The United States has held several subsequent discussions on the text and has listened to the views of many Members. In order to facilitate further discussion and promote understanding of the negotiating text, the United States circulated questions to interested Members. Several Members have submitted answers to those questions with the hope that other Members will find them helpful in preparing their own answers and gain from an increased understanding of various labeling requirements. The EC has tabled a comparable negotiating text, although it contains some important differences. There is a fair degree of support in principle for the two proposals by both developed and developing countries, and the United States and the EC are exploring ways to merge the two proposals. The United States seeks co-sponsorship of the U.S. negotiating text from action addressee host governments.

13. Action Request and Key Points: A U.S. delegation will be in Geneva May 7-11 discussing the U.S. proposal. Post is requested to approach host government and seek co-sponsorship of this proposal prior to May 7. In discussions with host governments, Washington suggests that posts draw on the following key background points:

What does the U.S. negotiating text do?  
-- The U.S. negotiating text was formally submitted to the WTO Negotiating Group on Market Access in May 2006 and focuses on labeling of textiles, apparel, footwear, and travel goods; all-important sectors in global trade,

including exports from developing countries.

-- The U.S. proposal would streamline labeling requirements on a global scale, provide flexibility for exporters if labeling requirements are changed mid-shipment, and lower costs for suppliers while passing savings onto consumers.

-- The U.S. text does not propose establishing new labeling requirements per se, but seeks to facilitate trade by setting limits on what information Members can require on permanent labels and markings.

-- Our proposal would also help to address the mandate in WTO negotiations focused on non-tariff barriers that are of interest to developing countries.

What have we done to advance our text?

-- U.S. delegations held a number of meetings with WTO Members in 2006 and 2007 in Geneva, and learned there is interest among a number of countries, developed and developing, to continue exploring an agreement in this area.

-- As these products are heavily traded by developing countries, developing countries have shown increasing interest in the U.S. proposal, and have increasingly intervened on the subject.

-- The United States previously circulated questions to interested Members to facilitate further discussion and promote understanding of the negotiating text (reftel).

-- The United States, EC, and Canada have formally submitted answers to those questions, while New Zealand, Turkey, and Japan have submitted draft answers.

-- We hope Members will find these answers helpful in preparing their own answers and gain an increased understanding of various labeling requirements.

What do we want from countries?

-- The U.S. is seeking formal co-sponsorship for the U.S. negotiating text on labeling of textiles, apparel, footwear, and travel goods.

-- Given the interest action addressee government's Geneva WTO delegation have expressed in the U.S. proposal over the last year, the United States would like to invite these governments to join as a co-sponsor.

-- Co-sponsoring the U.S. text will facilitate trade in textiles with a simple and streamlined process, including outer limits of what can be required on permanent labels.

-- The U.S. proposal lacks the controversial aspects included in the EC's proposal, and also encompasses travel goods. (The EC text does not explicitly state travel goods coverage; however, it does reference the Annex to the former WTO Agreement on Textiles and Clothing, which includes textile travel goods.)

-- Should host governments indicate they are unable to co-sponsor, we are interested in learning of any problems or concerns they may have with the U.S. negotiating text.

-- Should host governments ask about other Members' co-sponsorship of proposal, so far one key developing country (Sri Lanka) has indicated that it will co-sponsor the U.S. negotiating text. We are expecting other co-sponsors.

How is the EC's text different from ours?

-- The EC has a somewhat similar negotiating text, although it contains some important differences and proposes some controversial commitments including, but not limited to, the following:

(1) States that the EC text's provisions shall prevail over the WTO Agreement on Technical Barriers to Trade (TBT) relating to the same subject matter; also contains other problematic articles that appear to duplicate TBT provisions, which could serve to confuse future implementation;

(2) References only International Standards Organization (ISO) standards, although the TBT Agreement provision on international standards is not limited to ISO standards; the TBT Agreement also does not prohibit Members from developing their own domestic standards consistent with WTO rules;

(3) Does not clearly define relationship with the WTO TBT Committee or with the WTO Dispute Settlement Understanding.

-- Many Members have called for a joint U.S.-EC text. We are currently exploring ways to merge the two proposals.

14. If needed, the full text of the United States'

negotiating proposal on Reducing Non-Tariff Barriers to Trade Related to Labeling of Textiles, Apparel, Footwear and Travel Goods is as follows. After the U.S. negotiating text, the U.S. questions and answers are provided for further background.

(Begin U.S. Negotiating Text)

As affirmed in Annex B, Paragraph 26, of the Hong Kong Ministerial Text, non-tariff barriers (NTBs) are an integral and important part of the non-agricultural market access (NAMA) negotiations. Consistent with paragraph 22 of the Ministerial Declaration, the United States now respectfully submits to WTO Members this draft negotiating text on reducing barriers to trade in textiles, apparel, footwear, and travel goods.

The United States first indicated its interest in negotiating NTBs affecting textiles, apparel, footwear, and travel goods in its revised indicative list, tabled in November 2004 (TN/MA/W46/Add.8/Rev.1). On 1 December 2005, the United States circulated a concept paper to Members advocating more common approaches to labeling as a way to benefit exporters and consumers of textiles, apparel, and footwear across the globe (TN/MA/W/18/Add.12). In March of 2006, the United States also circulated an industry-drafted non-paper describing specific labeling problems and proposed targeted solutions. The United States has expanded coverage to include travel goods, based on subsequent conversations with industry and trading partners.

Textiles, apparel, footwear, and travel goods are products of importance to a range of countries, both developed and developing. The United States sees this text as a positive way for Members to reduce the diversity of labeling approaches in these areas, in order to save manufacturers time (i.e., to avoid delays to market) and money (i.e., to minimize costs of varying labeling schemes). The aim is to preserve the ability of regulators to require certain information to be provided on such goods in order to inform and protect consumers, while minimizing the costs of providing this information; such savings would then be passed on to consumers.

The United States looks forward to continued discussions with Members on this draft negotiating text and on eliminating non-tariff barriers to trade in textiles, apparel, footwear, and travel goods. The United States is committed to an open and transparent process and is open to suggestions for improvement or additions to the draft negotiating text.

Agreement on Reducing Non-Tariff Barriers to Trade Related to Labeling of Textiles, Apparel, Footwear and Travel Goods

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Members,

Recalling that pursuant to paragraph 16 of the Doha Ministerial Declaration, Members agreed to negotiations aimed at reducing or as appropriate eliminating tariffs and non-tariff barriers on non-agricultural products;

Recognizing the important contribution of the textile, apparel, footwear, and travel goods sectors to global economic growth and development;

Noting that textiles, apparel, footwear, and travel goods suppliers and producers in exporting Members may require regulatory flexibility to adjust to new labeling requirements and the subsequent commercial conditions, especially in the event that entry into force of such requirements is sudden;

Reaffirming that under the Agreement on Technical Barriers to Trade, Members shall ensure that technical regulations and conformity assessment procedures are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade, and allow a reasonable interval between the publication of technical

regulations and conformity assessment procedures and their entry into force, among other obligations;

Desiring to promote cooperative and effective approaches to enhance trade in textiles, apparel, footwear, and travel goods;

Agree as follows:

- ¶1. a. Members shall not require information on permanent labels or marking beyond:
- i. country of origin, fiber content, care instructions, and information necessary for consumer safety, with respect to textile and apparel goods; and
  - ii. country of origin with respect to footwear and travel goods.
- b. Members shall ensure that, at their discretion, manufacturers may provide additional information on permanent labels or markings with respect to all such goods.
- c. Members remain free to require that reasonable additional information of use to consumers be provided on goods or packaging through non-permanent means, including, for example, information regarding (their) material content (for footwear and travel goods).

¶2. Upon entry into force of technical regulations and conformity assessment procedures, Members should afford sympathetic consideration to requests for flexibility to adapt to modifications of labelling requirements, allowing for both old labels and new labels to be accepted during the transition period.

(End U.S. Negotiating Text)

¶5. The U.S. questions and answers in regards to the U.S. proposal on textiles, apparel, footwear, and travel goods, referred to in paragraph 2 of the cable, are as follows.

(Begin text of U.S. Questions and Answers)

What information do you require on permanent labels or markings on imported and domestic textile, apparel, footwear, and travel (TAFT) goods?

U.S. ANSWER: If the goods are imported into the USA, then the Tariff Act (administered by U.S. Customs) requires foreign origin marking to be permanently attached as the nature of the article will permit to most imported products. According to the Care Labeling Rule, administered by the Federal Trade Commission (FTC), clothing made primarily of textiles must have permanent care instructions. Socks and other hosiery products, and garments that are totally reversible without pockets, do not need permanent care instructions.

Do you require importer or dealer/distributor information on permanent labels or markings?

U.S. ANSWER: Such information (the RN number or business name) does not have to be permanent, but it should be attached in some "secure" manner if the goods are subject to the Textile, Wool, or Fur Acts. (Note: The RN number refers to Registered Identification Number.)

Are manufacturers allowed to provide additional information on permanent labels or markings with respect to imported and domestic TAFT goods?

U.S. ANSWER: The FTC and U.S. Customs permits additional "non-required" information if it is not false, deceptive, or misleading. U.S. Customs requires the actual foreign country of origin to be preceded by the indicators "made in" or "product of" if a non-origin reference may confuse the retail purchaser.

What additional type of information do you require on imported and domestic TAFT goods or packaging that may be

affixed through non-permanent means (e.g., hangtag, sticker, or on packaging)?

U.S. ANSWER: The Textile Act and Wool Act requires disclosure of country of origin, fiber content, and RN number or business name, but the FTC does not require that any of these must be permanent. They may all be on secure stickers or hang-tags. U.S. Customs requires country of origin to be permanent, as the nature of the article will permit, such as by using a sewn-in label. The Care Labeling Rule requires permanent care instructions for most textile clothing. The FTC does not require any additional information (although the States may require additional information for products with stuffing or filling or padding).

What lead-time do you provide for the shipper or importer to correct any labeling not in compliance or to apply for re-export or storage in a bonded warehouse?

U.S. ANSWER: Generally speaking, the goods should be properly labeled before they arrive at the U.S. port of entry. If there is a small error with the labeling, the company may apply for a "one-time waiver" from FTC, but this must be done before U.S. Customs notices the problem. Even if FTC staff is able to grant a waiver, U.S. Customs does not have to accept it. Otherwise, any corrections to labeling should be done within 30 days of entry, prior to the liquidation of the entry before U.S. Customs.

Do you provide a "grace period" during which labels conforming to previous requirements would still be accepted in the market place in cases where the lead-time for implementation of changes is not adequate for the trader to comply with new requirements?

U.S. ANSWER: This depends on the circumstances. In some cases, FTC staff may grant a "one-time" waiver under the Textile Corporate Leniency Policy. Some situations may not be suitable for such a waiver and there may be no grace period.

Would you have to make any changes to your domestic legislation or regulation to apply the disciplines in the U.S. proposal?

U.S. ANSWER: Not Applicable

Do you have any additional comments or concerns regarding labeling requirements for imported and domestic TAFT products or the U.S. proposal?

U.S. ANSWER: Not Applicable

(End U.S. Questions and Answers)

16. Please slug responses for USTR (BNorton) and Commerce (DMendoza and EBrzytwa). State POC for this demarche is Aaron Scheibe in the Economic, Energy, and Business Affairs Bureau's Office of Multilateral Trade. Mr. Scheibe may be contacted at (202) 647-8202 or [scheibeap@state.gov](mailto:scheibeap@state.gov).  
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